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November 30, 2005

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Federal Communications Commission  
Office of the Secretary

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OFFICIAL JOURNAL

Dear Mr. Franca:

Thank you for your letter of November 22, responding to mine of October 14.

Let me try again.

Entities operating Access BPL systems must supply information to the database manager at least 30 days in advance of commencement of operation. That is clear both from §15.615(a) as well as from the Report and Order in ET Docket No. 04-37, footnote 176, which reads: "Once the 30-day advance notification timeframe is over, the Access BPL operator can begin operations. However, the Access BPL operator must notify the database manager of the date of commencement of actual operations for inclusion in the database." This is an unambiguous requirement that operations may *not* take place until 30 days after notification.

Another clear and unambiguous requirement is stated both in paragraph 87 of the Report and Order and in §15.615(b). Quoting from paragraph 87, "The database manager shall be required to enter this information into the publicly accessible database within 3 business days of receipt."

In other words, the information required by §15.615(a) must be accessible to the public almost 30 days *in advance* of commencement of operation.

Making the database accessible only by Zip Code renders the advance notification requirement meaningless to the public. Unless a licensee (or someone on his or her behalf) regularly visits the Web site and enters his or her Zip Code (a practice that is *specifically discouraged* by the UTC's notice on the home page of [www.bpldatabase.org](http://www.bpldatabase.org)) there can be no prior consultation as discussed at paragraph 75 of the Report and Order. Without such prior consultation the Access BPL operator has no opportunity to tailor the system so as to reduce the possibility of harmful interference to a specific station in advance of commencement of operation. Therefore, the benefit of the prior notification

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requirement, limited though it is as an interference measure, is lost to the BPL operator as well as to the licensed radio service that will suffer harmful interference that could have been avoided.

Thus, the database as operated by UTC provides less than was promised in the Report and Order. For advance notification to be meaningful, the public must know when additions and changes to the database occur. That is functionally impossible if the "publicly accessible" database is actually maintained behind an opaque curtain and is only revealed one Zip Code at a time.

A way around this problem is to require UTC to make available to the public a list of Zip Codes and the date of the most recent data entry for each. This would not be burdensome as there are only a few dozen Zip Codes in the database. This also would make it clear when a specific BPL system serves more than one Zip Code area, information that is required by §15.615(a)(3) but that is not available to the public at present except by individual query of each Zip Code.

Finally, I note that you did not respond to my last point about the "error message." Let me elaborate by providing a specific example. There is a small BPL test area operating on a stretch of Mill Street that is located partly in Agawam (Zip 01001) and partly in Feeding Hills (Zip 01030), Massachusetts. If you enter "01001" on the [www.bpldatabase.org](http://www.bpldatabase.org) Web site you are given the data for the system. However, if you enter "01030" you get the "error message" that is quoted on page 2 of my October 14 letter and are asked for "written details concerning the nature of the interference and your licensed operations, including the location (complete address and coordinates), frequency(ies) of operation, the type of operation (mobile or fixed) and a brief description of the interference." Frankly, UTC has no authority to require the submission of such information from an FCC licensee prior to sharing information that the public is entitled to as a matter of right. If the database were appropriately accessible the question would never arise.

I hope that I have managed to make the ARRL's concerns somewhat clearer and look forward to favorable action on the suggestion offered above.

Sincerely,



David Sumner  
Chief Executive Officer

cc: William R. Moroney, UTC